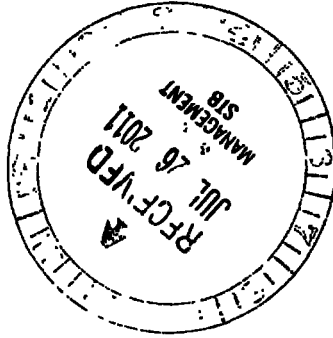


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Ms. Cynthia T. Brown
 Director, Section of Administration
 Office of Proceedings
 Surface Transportation Board
 395 E Street, S.W.
 Washington, D.C. 20423-0001



ENTERED
 Office of Proceedings

July 21, 2011

JUL 26 2011

Part of
 Public Record

Re: Ex Parte No. 711 – Petition of The National Industrial Transportation League for Rulemaking To Adopt Revised Competitive Switching Rules

Dear Ms. Brown:

On July 7, 2011, The National Industrial Transportation League filed a Petition with the Surface Transportation Board (STB) asking the agency to initiate a rulemaking to adopt revised rules on competitive switching. CEMEX, Inc. supports the proposal detailed by the League and asks the Board to grant the League's Petition and to issue a Notice of Proposed Rulemaking.

The Petition outlines the significant changes that have taken place in the railroad industry since the Interstate Commerce Commission adopted rules for reciprocal switching in 1985. The Petition details the power the STB has to change those rules. Most importantly, the Petition sets forth a detailed proposal for a new regime of competitive switching, under which competitive switching would be a presumptive right to shippers who are served by only a single, Class I rail carrier, lack effective inter- or intramodal competition, and meet other specific conditions.

CEMEX, Inc. is the largest cement, ready mix concrete, and a Top 5 limestone aggregates producer in the U.S., with rail shipments exceeding 125,000 railcars per year between 40+ locations on 6 Class I railroads. Rail transportation is essential to CEMEX. We believe that the League's proposal represents an equitable and balanced means to provide a necessary step toward adequate competition for captive shippers without improperly harming carriers. This reform is especially needed during this economic downturn as the U.S. cement industry is suffering through its greatest decline since the 1930s and has undergone a 25% reduction in employment and a 35% reduction in revenues from pre-recession levels. The cement and concrete product manufacturing sectors, combined, have shed more than 62,000 jobs between 2005 and 2009.

Increasing freight rates during times of tight capacity and increased cost are consistent with a well functioning market. However, double digit annual freight rate increases borne by many captive shippers during the excess capacity of the recent recession demonstrate that rail freight rates do not reflect market forces. The ratio of variable to total cost (R/VC) on construction materials rail shipments is routinely 300-400+%, but because these commodities are exempt, shippers have no other remedy. Under competitive switching, the subsidy of other shippers by captive shippers and the distortion in allocation of capital would be mitigated.

CEMEX, Inc. strongly urges the Board to grant the League's Petition and to issue a Notice of Proposed Rulemaking on the proposal detailed by the League. We believe that the League's proposal represents a fair and balanced effort to improve the state of competition in the rail transportation industry, and would provide increased competition for captive shippers without harming carriers. Issuance of a Notice of Proposed Rulemaking on the League's proposal would permit the industry as a whole to comment on the proposal and to guide the Board in its effort to improve the state of competition in the rail industry.

Thank you for your consideration.

Sincerely,

Juan Carlos Herrera

United States Operations

920 Memorial City Way, Suite 100, Houston, TX 77024 USA, (713) 650-6200

Executive Vice President of Logistics